NSSS ADVOCACY BULLETIN

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Law suit signals ongoing need for accountability

A woman on the Sunshine Coast is suing Vancouver Coastal Health and St. Mary's Hospital in Sechelt for not keeping her mentally ill daughter in hospital overnight, on January 6, 2013, although she was in an unstable state.

While the hospital allowed she required inpatient care, it was too late that night to transfer her to B.C. Women's Hospital in Vancouver. The mother says she was then told that in the meantime there was no care for the girl in the hospital.

They sent her home with a sedative instead, despite the mother's explaining her daughter's agitation and prior history of assaults.

The daughter, at home, ended up attacking her mother with a baseball bat. It was only by fending her off with a vacuum cleaner that she was finally able to get away and have the police called.

The consequences, then, save for that vacuum cleaner, could have been worse – much worse – for both mother and daughter.

As it was, the daughter, by the time the police arrived, had locked herself in the house, cut her wrists, and spread blood on the walls.

The suit against Vancouver Coastal is of interest because, as we have learned over the years, unless there is some accountability for system failure, improvements to avoid future failure are slow to happen and may not happen at all.

NSSS, in a few particularly troubling cases in the past involving suicides, has mentioned to family members the possibility of going to court. The family members in those instances, however, were so overcome by having lost a loved one, they couldn't face the further anguish and uncertainty – and uncertain costs - of a court proceeding.

NSSS itself, moreover, for much the same reasons, doesn't see court action as a generally useful tactic.

In this case, on the other hand, no one was lost so there was no barrier of grief, and the mother, having been beaten up and injured, had concrete grounds for asking for damages.

There is, of course, a larger question here: Why do these things happen? It wasn't as if the signs weren't there.

An RCMP officer involved in taking the teen girl to hospital that evening observed she had cuts on her wrists, was quite agitated, and in possession of a razor blade.

According to the mother's statement of claim, "[her daughter] had carved the words 'MONSTER F*** UP' on her wrist and had approximately 50 other fresh cuts on her arms and another approximately 50 partly-healed cuts on her arms that she had inflicted on herself."

Her daughter had also threatened to commit suicide and twice before had assaulted her. There was a prior history of her being taken to hospital as well.

The particular circumstances in this Sechelt case were unique. The greater problem is psychiatrists in Emergency wards not always certifying people who need to be in hospital, and colleagues in acute care discharging patients prematurely.

Urgent outreach too long in coming

The North Shore Schizophrenia Society has again requested that an urgent outreach service be established on the North Shore, where the criterion for involuntary admission ("to prevent …substantial mental or physical deterioration") can be used rather than the much narrower police provision (when the person is "likely to endanger").

Vancouver has such an emergency service. Richmond does. Surrey does. Nanaimo does. The North Shore, however, does not, despite repeated calls for it to be established.

The NSSS request was submitted to Elizabeth Stanger, director of Mental Health and Addiction Services, and to Dr. Apu Chakraborty, clinical director of Community Psychiatric Services, in early November.

Urgent outreach, otherwise known as an emergency service, involves going out to urgent situations where a first certificate may be required because the ill person won't go to hospital voluntarily. Calls can involve a nurse on his or her own (if they know the person and there's no risk to safety) or a nurse with a police officer.

If it appears the person qualifies for involuntary admission, then they call in a psychiatrist to do a quick assessment and sign a first certificate. A psychiatrist, of course, could also go out on the initial visit when it's already clear from information received that the person needs to be involuntarily admitted.

The absence of such urgent outreach on the North Shore is the most critical gap in our mental health services and has long been needed. Acute Home-Based Treatment is only provided on a voluntary basis.

Imagine a typical situation. A young man is quite psychotic and deteriorating further, but won't go to hospital. He's paranoid about hospitals and doctors. The parents are frantic.

"Call the police," they're told by Lions Gate psychiatry, so that's what they do. The police conclude he's not likely to endanger anyone. He is quite ill and meets the criterion for involuntary admission but, on the North Shore, everything stops there because he's not yet through the hospital door.

"Bring him to Emergency," the parents are then told, which is infuriating, because that's just the problem: He won't go to hospital.

Leaving the young man untreated in this way is clinically irresponsible. An urgent outreach service would deal with the situation.

A senior psychiatrist at Lions Gate Hospital suggested, at an NSSS public education meeting earlier last year, that the North Shore didn't have urgent outreach because there wasn't the same scale of need there was in Vancouver,

which has a full-time Mental Health Emergency Service, or Car 87, involving two complete shifts of three people and up to two additional people during the day.

This explanation came as a surprise, because an altogether different model, the Richmond one, which doesn't require such a critical mass, was the one NSSS has been proposing and was, indeed, put forward by a senior manager at Mental Health Services itself several years ago.

It provides the flexibility to match resources to demand.

In the Richmond case, a single psychiatric nurse working a 12 hour shift, 11 a.m. to 11 p.m., looks after the Mental Health Services component of their urgent outreach, or emergency, service. It's not expected, though, that this will occupy all of his or her time every shift. Accordingly, when they're not on an outreach call, they support outpatient services and/or emergency psychiatric intake.

Richmond, in this way, makes the most of the clinician's time and skills by integrating them with other programs. The time allocated to urgent outreach itself matches the need and volume exactly.

No special provision needs to be made for the police officer in the pairing – to accompany the nurse if required, as is usually the case – since the police are available for such calls as a regular part of their work.

In a brief response to the NSSS request, Mental Health director Stanger agreed that urgent outreach doesn't require a Car 87, Vancouver style, and promised to look into the Richmond model to see if it could be adapted for the North Shore.

The continuing mystery is why this wasn't done long ago, and why something so clinically important has been left in abeyance all this time.

It can't be for financial reasons, because the extra cost of such a service would be modest, and providing treatment earlier than otherwise, because of urgent outreach, would save both mental health and policing costs over time.

Besides, there are elements of Mental Health Service of far lesser importance currently soaking up resources, that could be cut back if necessary to underwrite urgent outreach .

Issue of authority to enter premises

A mother, concerned about her son who was psychotic and had sequestered himself in his apartment, called on police to intervene.

The officers knocked on his door, but when he didn't answer, walked away.

The mother, fraught with worry, and with notes on just how ill he was, insisted they break down the door.

"We'd only do that," they said, "if he was in imminent danger, say he was holding a knife against his throat."

"How do you know he's not doing that," the mother cried out, "if you don't enter the premises."

The police do in fact have the necessary powers, and also the ethical responsibility, to do so.

As the *Guide to the Mental Health Act* explains, "The courts have generally found the existence of a common law authority for police to enter a private dwelling, by force if necessary, when there are reasonable grounds for believing that there is a situation inside which involves the need to protect life and prevent injury. Since section 28(1) describes the police power in terms of a person likely endangering the safety of self or others, the police can clearly enter using force without requiring a warrant."

The authority to enter premises is equally clear when there's a judge's warrant or a "director's warrant" (Form 21), in the latter case to apprehend someone who has eloped from hospital or who hasn't reported for treatment under extended leave.

In those instances, apprehension under the warrant is mandatory.

In one particularly egregious recent case, VPD officers repeatedly declined to go through the door to pick up a psychotic, severely alcoholic woman who had breached her conditions of extended leave, despite their having a Form 21 in hand and despite the pleadings of the woman's mother.

The officer claimed, incorrectly, he didn't have the authority to do otherwise.

In the end they made at least 20 calls before finally executing the warrant.

The police in the above case were lucky the woman didn't do something drastic in the interim.

It's easy enough for officers, too, in apartment and condo buildings, to get a pass key from the building manager, saving them from having to break down the door or, as happens in some locations elsewhere, simply take a locksmith along if required.

A little common sense, and keeping things simple and straightforward, wouldn't be amiss.

Greg Matters case remains troubling

Greg Matters, a mentally ill ex-soldier suffering from post-traumatic stress disorder, was killed by police in a standoff with the RCMP in Prince George in 2012. B.C.'s Independent Investigations Office (II0) exonerated the police, but questions were raised about their review, so a review of the review was ordered.

It was conducted by Vancouver lawyer Marc Jette who found that while the IIO had violated the Police Act by hiring investigators too recently connected with police forces, there was no evidence of bias or lack of integrity in the IIO investigation.

Unfortunately the Jette review did not touch on the IIO's initial report that Matters was shot through the chest, when in fact, as the pathologist had found, he was shot through the back.

"It defies common sense to leave such a critical piece of information out of an IIO report," a statement by Matters' sister, Tracey, said.

The statement by Tracey Matters also criticized Jette for failing to address why the IIO did not reconstruct the bullet trajectory.

"There is an apparent inconsistency between the RCMP's allegation that Greg was attacking an officer with a hatchet and the fact that the bullet passed into Greg's back, out his chest and struck his dominant right forearm," the statement said.

"Greg obviously didn't have a hatchet raised (if he had one at all) and he was unable to run because of his physical restrictions. The coroner's inquest into Greg's death found there was no DNA evidence connecting him to the hatchet."

It's one more case that is difficult to get out of one's mind.